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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,565	10/17/2001	Andrew C. Gilbert	CF/040	7706
64558 7590 04/18/2007 FISH & NEAVE IP GROUP ROPES & GRAY LLP 1211 AVENUE OF THE AMERICAS NEW YORK, NY 10036-8704			EXAMINER TRAN, HAI	
			ART UNIT 3693	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/18/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/981,565

Applicant(s)

GILBERT ET AL.

Examiner

Hai Tran

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/18/2002</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the first Office Action in response to the application filed on October 17, 2001, titled: "Systems And Methods For Bid/Offer Spread Trading".
2. Claims 1-26 are pending in this application.

Priority

3. This application claims benefit of U.S. Provisional Patent Application No. 60/280,668, filed on March 30, 2001.

Drawings Objections

4. The drawings are objected to because of the following informalities. The drawings filed on 01/09/2003 have six figures while the drawings filed on 10/17/2001 have 13 figures and the specification discusses 13 figures. For the purpose of examination, the Examiner examined the drawings with 13 figures for this application; however, the applicant is required to correct this informality.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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6. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1, 8-13, 14 and 21-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Gary (U.S. Patent No. 6,618,707) ("Gary").

8. With respect to claims 1 and 14, Gary teaches a method and system for using a computer system to execute a trade for a tradable item, comprising: receiving a first trading command from a first party to make a spread market for the tradable item; receiving a second trading command from a second party in response to the spread market (column 1, lines 21-37, 59-66, column 4, lines 54-59, column 7, lines 34-40); when the second trading command is a hit command, receiving from the second party a third trading command to make a price/size market for the tradable item and receiving a fourth trading command from the first party in response to the price/size market (column 9, lines 58-66); and when the second trading command is a take command, receiving from the first party a third trading command to make a price/size market for the tradable item and receiving a fourth trading command from the second party in response to the price/size market (column 9, lines 58-66). Gary also teaches matching security exchange orders to improve liquidity and assure the fair handling of orders (column 4, lines 54-59, 65-3 of column 5).

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9. With respect to claims 8-10 and 21-23, Gary teaches where a spread marker comprises a bid side and an offer side where the bid side comprises a spread and a size and where the offer side comprises a spread and a size (column 13, lines 29-27 of column 14).

10. With respect to claims 11-13 and 24-26, Gary teaches where a price/size marker comprises a bid and an offer where the bid comprises a price and a size and where the offer comprises a price and a size (column 14, lines 51-41 of column 15).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2-7 and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gary in view of Lupien et al. (U.S. 6,012,046) ("Lupien") and further in view of Official Notice.

13. With respect to claims 2, 6, 15 and 19, Gary does not expressly disclose requiring the parties to submit the third trading command within a given time period from receipt of the second trading command. Lupien teaches requiring the traders to set a Time-in-Force indicator that determines how long the order is valid (column 7, lines 24-28). It would have been obvious to a person of ordinary skill in the art at the time of the invention to include the teaching of Lupien into Gary's invention to assure the traders to

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respond in a timely manner and thus quicken the process. The motivation would be to improve the liquidity and assure the fair handling of orders (column 4, 54-59).

14. With respect to claims 3, 7, 16 and 20, Gary does not expressly disclose blocking the parties from participating in a market if the third trading command is not received within the given period of time. Lupien teaches that traders are given a certain period of time to reply ("good until end of day") or the order will be cancelled ("good until canceled") (column 7, lines 24-28). It would have been obvious to a person of ordinary skill in the art at the time of the invention to include the teaching of Lupien into Gary's invention to assure the traders to respond in a timely manner and thus quicken the process. The motivation would be to improve the liquidity and assure the fair handling of orders (column 4, 54-59).

15. With respect to claims 4 and 17, Gary does not expressly teach charging a fee to the parties when the third trading command is not received within the given period of time. The Examiner takes an Official Notice that charging a trader a fee for not responding in a timely manner is an old and well-known feature in the art of business. The motivation would be to assure the traders to respond in a timely manner and thus improve the liquidity in the security exchange market (column 4, lines 54-59).

16. With respect to claims 5 and 18, Gary does not expressly teach entering a default trading command when the third command is not received within the given period of time. Lupien teaches that traders are given a certain period of time to respond or the order will be cancelled ("good until canceled") (column 7, lines 24-28). It would have been obvious to a person of ordinary skill in the art at the time of the invention to

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include the teaching of Lupien into Gary's invention to assure the traders to respond in a timely manner and thus quicken the process. The motivation would be to improve the liquidity and assure the fair handling of orders (column 4, 54-59).

17. Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

18. Claims 1-26 are rejected.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7364.

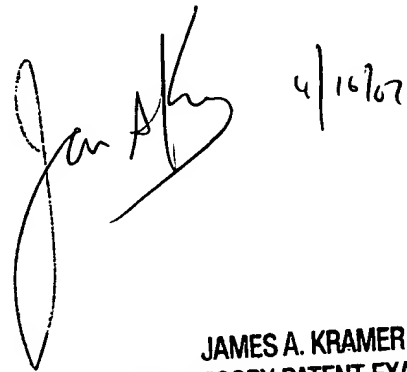
The examiner can normally be reached on M-F, 9-4 PM.

20. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James A. Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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21. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HT

A handwritten signature in black ink, appearing to read "James A. Kramer", followed by the date "4/16/07" written vertically.

JAMES A. KRAMER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600